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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,887	10/15/2001	Mitsuya Kishida	282661US8X	3455

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

HUYNH, NAM TRUNG

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/20/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/20/2007.

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patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary

Application No.

09/977,887

Applicant(s)

KISHIDA ET AL.

Examiner

Nam Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/02/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-12 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-12, and 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/2/2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1, 5, 7-9, 12, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon et al. (US 6,628,971) in view of Okawa (US 6,832,105).

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A. Regarding claims 1, 7, 9, 12, 18, and 20, Yoon et al. discloses a system and method for displaying a background image in a mobile telephone (title). In the scope of the invention, background images are downloaded and stored in a memory (column 1, lines 46-47). A user is then capable of selecting and setting a background image based upon a background image display request condition (columns 3-4, lines 35-67, 1-4). When a display request condition is detected, a controller of the mobile telephone, which controls the overall operation of the mobile telephone, displays the image set previously set by the user (automatically selecting/retrieving background images to be displayed). Yoon et al. discloses examples of a background image display request condition as when a short message is received or turns on the mobile telephone (columns 3-4, 66-67, 1-12).

However, Yoon et al. does not explicitly disclose that the background images are displayed in a sequence according to pre-set parameters received from a base station. Okawa discloses a portable cellular phone and a method for displaying image data, which enables simplified control on displaying data on a screen of a portable cellular phone (abstract). In the scope of the invention, the main control section of the cellular phone detects digital data and reads information packaged data, or appended data, corresponding to a number of a command from the memory section (receiving pre-set parameters from a base station) and instructs the man-machine interface (MMI) control section to perform signal receiving operations required by the contents of the read data. The MMI control section in accordance with the main control section instructs the display section to display various images (column 5, lines 27-45). The appended data

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provides instructions for processing of displaying the display data (retrieving background images in sequence as defined by the pre-set parameters (column 2, lines 25-32). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Yoon et al. to receive and execute instructions for displaying images stored in memory, as taught by Okawa, in order to increase flexibility in displaying operations and characters or images can be expressed more freely, thus providing effective image displaying performance.

B. Regarding claims 5 and 16, Yoon et al. teaches the displaying of a background image when a user turns on a mobile telephone (column 4, line 8). It is further obvious and readily known in the art that a mobile telephone is capable of registering with the network upon power up.

C. Regarding claims 8 and 19, Okawa discloses that the cellular phone comprises an external data/input output control section that connects external data terminals and inputs and/or outputs data to and from outside (column 5, lines 5-8).

5. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon et al. (US 6,628,971) in view of Okawa (US 6,832,105) as applied to claims 1 and 12 above, and further in view of Hubbe et al. (US 6,667,748).

The combination of Yoon et al. and Okawa discloses the limitations set forth in claims 1 and 12, but does not explicitly disclose that images are stored on the memory of a Subscriber Identity Module. Hubbe et al. discloses a subscriber identity module (SIM) connected to a mobile telephone (figure 1) and that a SIM is used for storing both data specific to the user and data relating to additional services which it supplies to the

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radio communications terminal (column 1, lines 19-23). Therefore it would have been obvious to one of ordinary skill in the art to allow the comic data to be stored on the SIM of the communication terminal apparatus of the combination of Yoon et al. and Okawa, as taught by Hubbe et al., in order to save fixed memory resources on the apparatus.

6. Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon et al. (US 6,628,971) in view of Okawa (US 6,832,105) as applied to claims 1 and 12 above, and further in view of Pedersen et al. (US 6,684,087).

The combination of Yoon et al. and Okawa discloses the limitations set forth in claims 1 and 12, but does not explicitly disclose that the background images are downloaded from a source on the Internet to the communication device using a browser function. Pedersen et al. discloses a radio terminal for browsing the Internet (title). In the scope of the invention a radio terminal comprises uses the wireless applications protocol (WAP) that provides for a web browser (column 4, lines 43-49). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile phone in the combination of Yoon et al. and Okawa to include a web browser, as taught by Pedersen et al., in order to allow the mobile phone to communicate with a transceiver at an Internet gateway and access the Internet through a radio link.

7. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon et al. (US 6,628,971) in view of Okawa (US 6,832,105) as applied to claims 1 and 12 above, and further in view of Fogarty (US 6,311,180).

The combination of Yoon et al. and Okawa discloses the limitations set forth in claims 1 and 12. The combination does not explicitly disclose the formatting of background and foreground images. Fogarty discloses a method for mapping and formatting information (figure 2, item 306) for a display device in which a mapping system creates a display document. This display document describes display parameters such as background and foreground colors (column 10, lines 11-24). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to follow the teachings of Fogarty, and create a display document for the background images in the combination of Yoon et al. and Okawa in order to properly display the background image without any colors of the foreground. It is further obvious that by eliminating foreground colors in the background, the background image would be distinct and not be confused with foreground information.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 5-12, and 16-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gotou (US 6,020,828)

Wells et al. (US 5,870,683)

Kuno et al. (US 6,473,628)

Mochizuki et al. (US 6,044,248)


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam Huynh whose telephone number is 571-272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NTH
3/13/07


GEORGE ENG
SUPERVISORY PATENT EXAMINER